

Hollywood
Property Owners
Alliance

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Assemblyman Robert Bonta
1515 Clay Street Ste 2204
Oakland, CA 94612

Assemblyman Richard Bloom
2828 28th Street
Santa Monica, CA 90405

Senator Ben Allen
2512 Artesia Blvd #320
Redondo Beach, CA 90278

Subject: AB 1479 – Oppose Unless Amended

Dear Assemblymember Bonta, Assemblymember Bloom, and State Senator Allen,

The Hollywood Property Owners Alliance, the nonprofit organization which manages the Hollywood Entertainment District Business Improvement District, is seeking your assistance to amend the proposed AB 1479 (Bonta). We ask that this bill be opposed unless amended. This bill imposes additional burdens on private non-profit organizations that are subject to the California Public Records Act ("CPRA"). Despite the intended objective to promote government transparency, there is an unintended consequence. The civil penalty provision creates an incentive for serial public records requestors to seek such penalties and, in the case of the small nonprofit organizations that manage business improvement districts (BIDs), this poses a very real threat to the survival of BIDs in this state.

The proposed legislation seeks to impose the threat of civil penalties ranging from \$1,000 to \$5,000 to a public agency if the court finds, by a preponderance of the evidence, that the agency has failed to respond to a request; improperly withheld a public record; unreasonably delayed providing a record; improperly assessed a fee upon a requestor; or did not act in good faith.

The CPRA already provides legal remedies to requestors who feel any or all of these obstacles have been presented. Our nonprofit is a good case study of the burden resulting from serial public records act abuse; and the financial burden is not sustainable. In the case of Hollywood, which has been subject to the CPRA since 1999, 15 years went by with perhaps just one or two requests from the public. Then, beginning in October 2014, one individual, intent on bringing our organization to its demise, submitted 144 requests over the course of 22 months. His actions (which are celebrated on his website) seems to have stimulated a second requestor who appears to be following in his footsteps.

Our nonprofit organization which manages two BIDs has five staff people. At times, there were up to 30 pending requests at one time. The staff worked very hard to comply with the Act, working in good faith to retrieve records and respond to his unending requests. At considerable expense, we hired a specialist attorney to help us navigate the intricacies of the CPRA law. Despite our efforts and conscientious responses, the requestor filed a lawsuit against our nonprofit corporation in December of 2016. We now find ourselves expending significant legal fees to respond to his writ of mandate for records that he alleges were not produced.

Please note that attorney's fees alone in these cases can be substantial and the threat of having to pay a plaintiff his or her attorney's fees on top of our own is a sufficient deterrent to not following the law. Furthermore, our nonprofits have virtually zero recourse if the plaintiff's position is upheld by the court. Adding a "profit incentive" to these lawsuits will cause CPRA litigation to swell and force extortion-type settlements.

We are not the only nonprofit organization who has been subject to the burdens placed by this one individual. At least 18 other nonprofit BID management organizations in the city of Los Angeles have also been barraged by his requests. Some organizations are very small, with either a volunteer to run the BID, or a part-time employee. If this type of abuse is incentivized, this will result in the demise of the BIDs as we know them today.

Why are we concerned for the future of the BIDS? The funds that must be used to pay for legal fees and to defend against litigation are *property owner assessments*. These assessments are intended to be used for services to improve the district, including tree trimming, trash and graffiti removal, security patrols, marketing programs and the like. While everyone agrees that BIDs are of great value to communities, support for the self-imposition of property assessments will disappear if the assessments are supporting defense of CPRA litigation, lawyers and possibly civil penalties.

Finally, BID organizations, from the beginning, were never considered public agencies for CPRA purposes until a lawsuit in 1999. And in acknowledging the unique nature of our organizations, the statute provides this definition: "'owners association' means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan." (See Section 36612 of Streets & Highways Code.)

On behalf of not only our nonprofit property owner's association, but all the organizations that manage BIDs not only in Los Angeles, but throughout the state, we would ask that the bill be amended to restrict its application only to public (governmental) agencies.

Sincerely,



Kerry Morrison
Executive Director